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Human Rights Committee

Ninety-second session

Summary record (partial)* of the 2519th meeting
Held at Headquarters, New York, on Monday, 24 March 2008, at 10 a.m.

Chairperson: Ms. Palm (Vice-Chairperson)

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Working methods

* No summary record was prepared for the rest of the meeting.

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08-27969 (E)

In the absence of Mr. Rivas Posada, Ms. Palm, Vice-Chairperson, took the Chair.

The meeting was called to order at 10 a.m.

Working methods

A strategic approach to public relations, including relations with the media (CCPR/C/92/CRP.2)

1. **Mr. Shearer**, introducing his revised paper, said that the title had been changed to embrace all public relations, not just relations with the media. The paper contained 11 recommendations, most of which were preceded by an introductory paragraph.

2. Regarding recommendation 1, he said that, in the past, there had been complaints about the ease of use of the OHCHR (Office of the United Nations High Commissioner for Human Rights) website. Other websites and online indexes also contained information about the Committee, but most members of the public were unfamiliar with such sources of information. Therefore, it was essential for the human rights section of the United Nations website to be constantly reviewed, updated and improved with regard to its layout, content, topicality and ease of use. He wondered if the Secretariat or other Committee members could provide information on the most recent website developments.

3. **Mr. Gillibert** (Secretary of the Committee) said that he had received no progress report regarding the website update.

4. **Ms. Wedgwood** said that it would be useful if the OHCHR website also offered links to other websites with useful indexes.

5. **Mr. Shearer** responded that such links would be a useful addition. Moving on to recommendation 2, which dealt with the importance of NGOs, he said that, in the Committee's experience, reforms did not work best from the top down, but rather from the bottom up. Results depended on the willingness of Governments to protect human rights; such action was most often inspired by the work of local non-governmental organizations (NGOs). The recommendation in question was designed to draw attention to the importance of engaging with national NGOs, especially in countries of particular concern, in order to foster exchange of information. Meetings were already being held with international NGOs, and their help should be enlisted in identifying appropriate NGOs working at the grass-roots level.

6. **Mr. Lallah** said he strongly supported recommendation 2, but suggested that the Secretariat itself should compile a list of national NGOs in all countries through its regional representatives, which would later be used to establish direct contact with the NGOs and inform them of the Committee's work. He noted that there was a particular lack of such information in developing countries because very few NGOs from those countries attended meetings of the Committee.

7. **Mr. Khalil** said that he was constantly struck by the lack of knowledge of the Committee's concluding observations in much of the world; in fact, in some countries, Governments sought to hide the Committee's work from the general public and NGOs in particular. He therefore suggested that copies of the Committee's concluding observations should be sent directly to national NGOs, and that such action might be reflected in Mr. O'Flaherty's paper on revision of the guidelines for State party reports under the International Covenant on Civil and Political Rights (CCPR/C/92/CRP.1). In some countries, the legislature had a human rights body, the duties of which included calling on the executive power to state its position on international obligations and to follow up on progress made by the Government.

8. **Ms. Chanet** said that it would be useful to have special rapporteurs on information and suggested the establishment of a kind of troika, with three different rapporteurs for the Committee's three working languages. It was important not only to disseminate information on the Committee's work, but also to attract media attention when States parties' reports were discussed. In such cases the rapporteurs might take on the role of information managers and, in cooperation with the Secretariat, identify the media sources capable of promoting interest in the Committee's work. Such initiatives were essential for spreading awareness of the study of periodic reports. Clearly, the more interesting the discussion of such reports was, the more media attention it would arouse.

9. **Mr. Amor** said that all NGOs should be given the same opportunity to contribute to the human rights dialogue. It was also important to bear in mind the potential contribution of universities, especially faculties of law and political science, in making

available information on the Covenant and the work of the Committee. Members of Parliament should also be kept regularly informed, as they normally focused on local issues and showed little awareness of the international system for the protection of human rights.

10. **Ms. Motoc** said that relations with the press were among the most important aspects of public relations. As lawyers, Committee members were not accustomed to engaging with the media, or perhaps they believed that the legal issues they dealt with were too complex for others to grasp. It was especially important to endeavour to give the Committee a higher profile. As former Special Rapporteur on the situation of human rights in the Democratic Republic of the Congo, she had worked with a number of NGOs, and she fully supported other members' remarks regarding NGO involvement. National and international NGOs cooperated with each other, the former being a useful source of information for the latter. It should be noted that small national NGOs with scant means often provided the most reliable information because they were in direct contact with the victims of human rights violations and because they did not take general policy stances. It was therefore imperative to involve local NGOs and be in direct contact with them.

11. **Ms. Wedgwood** said, with respect to recommendation 2, that it would be useful for OHCHR to invite NGOs to register with it, not for the purpose of accreditation but, rather, in order to make their contact information more readily available to the relevant committees and the public. The tendency for four or five major NGOs in developed countries to dominate discussion of human rights at the international level was a source of some resentment among developing-country NGOs, which could be addressed by such a register.

12. **Mr. Shearer** said that Ms. Chanet's suggestion concerning a troika of special rapporteurs on information was partly reflected in recommendation 11 on the appointment of a rapporteur for public information who could assist in publicizing the work of the Committee in the various languages. While he had some problems with the troika concept, he agreed that efforts to inform the public should be expanded.

13. **Mr. Lallah** said that he agreed with recommendations 3, 4 and 5 of the document. Regarding access by NGOs and States parties to audio recordings of the public meetings, he said that, although such recordings had been available in the past, he had been told by one organization that its request for a meeting recording had been denied. They should in fact be provided upon request to NGOs and States parties alike.

14. **Mr. Gillibert** (Secretary of the Committee) said that, as some members had opposed making such recordings available to NGOs during the Committee's discussions on the issue at its previous session, cassettes were no longer provided. It was for the Committee to decide if it wished to make them available again.

15. **Mr. Amor** said that he would appreciate an explanation of recommendation 4 in non-technical terms. Concerning recommendation 3, he requested feedback from the Secretariat on the Committee's wish to hold meetings of the Geneva sessions on State party reports at the Palais des Nations. The site of the Committee's current session was much less open to the public than the Palais des Nations. The Committee should also reconsider the issue of holding meetings at Headquarters. That posed an obstacle to non-Western colleagues, who sometimes had difficulties in obtaining United States entry visas. He himself had been detained in 2007 for more than an hour by immigration authorities at John F. Kennedy Airport and had been obliged to make five visits to the United States Embassy in Tunis to obtain a three-month visa. If the Committee wished to be more visible, it should hold its meetings elsewhere than the present hall and the Palais Wilson.

16. **Mr. Gillibert** (Secretary of the Committee) said that the Conference Services Division of the United Nations Office at Geneva was looking into the possibility of providing conference facilities for the Committee at the Palais des Nations. If there was sufficient organization and discipline in the examination of State party reports, it would be possible as of the next session of the Committee to hold such meetings at the Palais des Nations. The other activities of the Committee would take place at the Palais Wilson.

17. **Ms. Chanet** said that the issue under consideration was whether or not to hold meetings on State party reports at the Palais des Nations, not whether they should be held in New York or Geneva. Concerning recommendation 5, there were pitfalls to encouraging States parties to involve their national

media in the Committee proceedings, as some States had no influence over the press while others, on the contrary, had State-controlled media. The recommendation should therefore be withdrawn.

18. **Ms. Wedgwood** said that the podcasting of the meetings could help the Committee to publicize its work. For instance, a news organization such as Jeune Afrique could reach tens of thousands of West African readers with such a podcast. Furthermore, the coverage of meetings would be more vivid than through Committee documents. Podcasting would also facilitate coverage even if meetings were held at the Palais des Nations, as journalists would be able to monitor the proceedings more easily. She assumed that the broadcasts would be in all three working languages of the Committee. Many people would attend the Committee's public meetings if they were made more accessible, including school groups and persons with a particular interest in the countries under consideration. There was therefore a need to hold discussions with the Department of Safety and Security at Headquarters so as to facilitate public access. She favoured continuing to hold sessions of the Committee in New York, because it was important for members to remain in contact with the relevant missions, the Secretariat and persons such as the Legal Counsel. Lastly, there was no need for crews to film the proceedings as their coverage could give an incomplete or false picture of the Committee's work.

19. **Ms. Motoc** said that she was in favour of webcasting the Committee's proceedings. There was no need for the Committee to transfer its Geneva meetings from the Palais Wilson to the Palais des Nations, which would place a burden on the Secretariat. Furthermore, a change of venue would not encourage the news media to give the meetings greater coverage. Strict guidelines should be established by the Committee for media coverage, especially as some media were State-sponsored.

20. **Mr. O'Flaherty** said, regarding recommendation 3, that moving back and forth between the Palais Wilson and Palais des Nations would be highly inconvenient for the Secretariat and States parties alike. Changes of venue would create confusion He wondered whether the Committee would have to return to the Palais Wilson in the event that it concluded its consideration of a State party report earlier than planned. Furthermore, he was not convinced that transferring proceedings to the Palais des Nations would in any way increase media coverage. It was for the Committee to make its work more newsworthy. The meeting room of the Palais Wilson was rarely filled to capacity. He suggested that the proposal to provide podcasting of the public meetings should be made directly to the High Commissioner for Human Rights rather than to the Information Officer, as it had budget implications. Concerning recommendation 5, it was unusual to invite States to encourage the media to cover an event. Nevertheless, there was a need to stimulate interest in the Committee's proceedings among as many parties as possible, including the news media.

21. **Sir Nigel Rodley** said he strongly endorsed recommendation 3. Meetings at the Palais des Nations would clearly be more accessible to the press and NGOs and could maximize attention to the Committee's work. The problems which would arise for the secretariat were not insuperable and were minor compared with the difficulties faced when it travelled to New York. It was as difficult to access the Palais Wilson as it was United Nations Headquarters. States parties would not have to be informed of where the Committee was meeting when it was not in public session. Furthermore, the Committee could meet at the Palais Wilson when it needed to be near to the relevant files. With respect to recommendation 5, it should be recast to say that the Department of Public Information, rather than States parties, should facilitate media coverage of the meetings. Lastly, he did not consider that there was a need to meet at Headquarters in March in order to be in contact with such bodies as the Office of the Legal Counsel, especially when most relevant NGOs and diplomats involved in human rights were in Geneva working with the Human Rights Council.

22. **Ms. Motoc** said that meeting in New York gave members an important opportunity to maintain contacts with other bodies dealing with human rights at Headquarters such as the Department of Economic and Social Affairs, which dealt with the Convention on the Rights of Persons with Disabilities, for example, and the Department of Public Information.

23. **Mr. Kälin** said that he had doubts as to whether holding proceedings at the Palais des Nations would add any value to the Committee's work. He supported recommendation 4, which would give journalists and NGOs greater access to and increase interest in the Committee's deliberations. With respect to

recommendation 5, it was important for public meetings to be open to all kinds of media.

24. **Mr. Shearer** noted that opinion on the possibility of moving proceedings to the Palais des Nations was divided. In the past there had been cases in which the Committee had transferred its meetings to the Palais des Nations as the Palais Wilson could not accommodate all interested persons. He was of the view that public meetings on State party reports should be held at the Palais des Nations as a standard procedure. He understood that the Committee would return to the issue at a later date.

25. **Mr. Kälin** provided an explanation of podcasts, webcasts and streaming media.

26. **Ms. Wedgwood** said that there was no need to involve film crews in covering meetings, as there were problems with lighting, and cameras tended to be intrusive. Releasing the audio recordings which already existed in three languages would be sufficient.

27. **Mr. O'Flaherty** agreed that there was no need for cameras or images, which increased costs. The spoken word would suffice and worked equally well for podcasting, streaming and other media.

The meeting rose at 1 p.m.

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Human Rights Committee
Ninety-second session

Summary record of the 2520th meeting
Held at Headquarters, New York, on Monday, 24 March 2008, at 3 p.m.

Chairperson: Mr. Rivas Posada

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Consideration of reports submitted by States parties under article 40 of the Covenant (*continued*)

Third periodic report of Panama

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08-27981 (E)

The meeting was called to order at 3.05 p.m.

Consideration of reports submitted by States parties under article 40 of the Covenant (*continued*)

Third periodic report of Panama (CCPR/C/PAN/3, CCPR/C/PAN/Q/3 and Add.1)

1. *At the invitation of the Chairperson, the members of the delegation of Panama took places at the Committee table.*

2. **Mr. Castillero Correa** (Panama) said that Panama was a party to six of the seven most relevant United Nations human rights instruments. The workshop on institutional awareness-raising and the drafting of reports for treaty bodies, held from 31 July to 4 August 2006 and sponsored by the Office of the United Nations High Commissioner for Human Rights (OHCHR), had led to the establishment of an inter-agency committee, coordinated by the Ministry of Foreign Affairs, that was responsible for submission of the State's reports to human rights treaty bodies. In submitting its third report to the Committee, his delegation paid tribute to the work of the Ombudsman's Office and, in particular, its work with organizations of civil society. Despite the difficulties that his Government faced, it was taking steps towards the goals of sustainable development and an economy that focused not only on the market, but also on human beings.

3. His Government had supported the adoption of the Inter-American Declaration on the Rights of Indigenous Peoples and the United Nations Declaration on the Rights of Indigenous Peoples and had decided to take time to consider whether any of its population groups were being left behind during the development process. In an effort to combat the poverty in which 98 per cent of its indigenous population lived, it was implementing a literacy programme in which 15,000 indigenous people were enrolled and a social protection programme, the Opportunities Network, from which 24,085 indigenous families were benefiting. Under that programme, 15,000 people had received training in food production, the rights of citizens and the organization of community initiatives. Steps were being taken to ensure the continuity of those initiatives under future governments. His Government also recognized that the Afro-descendant population had played a role in the country's history and was a source of inspiration to many patriotic Panamanians.

4. Panama had ratified the United Nations and Organization of American States (OAS) instruments on the rights of persons with disabilities and had established that discrimination against people with any type of disability was an affront to the dignity and value inherent in human beings. The Government had made education for all a priority and had trained over 10,000 teachers in that approach. The number of distance learning centres had more than tripled over the past five years; school infrastructure was being upgraded; and the intercultural bilingual education programme, which benefited the indigenous population, was being expanded. In order to eliminate child labour and help families living in extreme poverty, 43,700 new scholarships had been granted in 2007 and prizes were awarded for both talent and effort. The Government expected to have eliminated illiteracy, which currently affected 7 per cent of the population, by the end of 2009.

5. Through the Opportunities Network, the Government had achieved almost universal free health care for children under five and for pregnant mothers, thereby reducing the maternal and child mortality rate and helping to prevent cerebral palsy and other disabilities in its children. Cervical cancer was one of the primary causes of death among the nation's women; 500,000 pap smears had been administered at no cost during a national campaign. Panama had been a pioneer in introducing the rotavirus and hepatitis vaccines; dengue fever, child diarrhoea, tuberculosis, malaria, influenza, hepatitis A and meningitis were under control; and the country's AIDS prevention programmes focused on women, who had a higher rate of infection than men. Through the "Operation Miracle" programme, implemented in cooperation with partner countries, 11,300 ophthalmic surgeries had been performed. Breast cancer prevention programmes and free dental care, including dentures, were available and hospitals and health centres were being updated, remodelled or built. The number of beneficiaries of the child nutrition programme had risen from 40,000 in 2004 to 62,000 in 2007, the supply of drinking water had been extended in urban areas and new aqueducts had been built in rural areas, and housing projects were being pursued nationwide, including in indigenous communities.

6. Women made up half the nation's population and the Government recognized that they were an essential part of Panama's future. It had developed a comprehensive, coordinated policy that included programmes benefiting women and indicators for measuring results. In order to help them launch small and micro-enterprises, women were granted 38 per cent of microcredit loans. The Ministry of Social Development had set up networks of local-level protection units for women victims of domestic violence; to date, 1,056 women had had recourse to them. Because the Government considered that domestic violence and child abuse were problems that concerned society as a whole, it had involved civil society in prevention and treatment initiatives and had undertaken to ensure respect for the rights of Panamanian women and children.

7. Much remained to be done in the area of security. Drug trafficking and related crime were the primary obstacles to be overcome, and citizen participation was essential in combating them. In order to strengthen the rule of law, prison reform was needed; construction of five new modules in existing prisons would help alleviate overcrowding and the prison master plan had been submitted to the President of the Republic on 17 March 2008. The plan would bring the existing prison infrastructure into line with international standards and with Act No. 55/2003 at a cost of Bs 60 million. Prevention and re-education initiatives would also be launched. Trained guards, lawyers, social workers and doctors were being appointed to work in current and future prisons and the Prison Training Academy was training prison staff in human rights, the law and modern working procedures; Act No. 55/2003 also called for replacing the National Police officers currently assigned to the nation's prisons.

8. A review of the justice system had been launched in 2005. The 1982 Criminal Code had been modified through the adoption of Act No. 14 of 18 May 2007; the amended Code, which would enter into force on 22 May 2008, established new crimes that reflected changes in society and international standards. An ongoing reform of the Code of Criminal Procedure would introduce an accusatory system that would ensure respect for the rights of accused persons under a transparent, impartial, effective and expeditious legal system.

9. After consulting with all relevant parties, the State Justice Commission had recommended that the Executive branch should adopt a State criminological policy with clearly defined principles and strategies in order to arrive at a useful instrument for the development of public policy in the area of crime prevention and punishment.

10. The Government had adopted the Commission's recommendations and had appointed a Technical Committee, which was responsible for collecting proposals for the new codes, and a Codification Committee, which functioned in accordance with the highest standards and principles in the areas of prevention, public safety, human rights, social justice, sustainable human development, citizen participation and education in the culture of peace.

11. In February 2008, the President had approved a law that would regulate and streamline the work of the courts through the use of modern technology; a new electronic court records system would be accessible via the Internet. During the previous three years, the Government had modernized the governance system and increased its transparency through three initiatives: PanamáCompra, PanamáEmprende and PanamáTramita. The rule of law had also been strengthened in the areas of maritime and trade law.

12. Decree-Law No. 3 of 22 February 2008, establishing the National Migration Service, would come into force in August 2008. Four new categories of immigrants would be established under the law: non-residents, temporary residents, permanent residents and temporary humanitarian protection status, which was also governed by Decree No. 23 of 10 February 1998 and was granted to groups of people who were forcibly displaced into Panamanian territory and were not covered by the 1951 Convention relating to the Status of Refugees and its 1967 Protocol. Under certain circumstances, refugee status could be granted retroactively to such persons.

13. Decree-Law No. 3 had amended Panama's immigration legislation in order to prevent the entry of individuals with a criminal history; however, it could not justify violation of any of the human rights enshrined in the Constitution. That very day — 24 March 2008 — the National Assembly, pursuant to an agreement between the Government and the Office of the United Nations High Commissioner for Refugees (UNHCR), would adopt legislation

granting the option of permanent resident status to any refugee who had lived in Panama for more than 10 years.

14. The Electoral Tribunal, which had achieved international recognition for its work, was responsible for organizing elections and ensuring their freedom, integrity and efficiency. It also maintained the civil registry and issued identity documents.

15. The indigenous communities in Darién province had the highest percentage of unregistered children. Through the Opportunities Network, those children had been issued identity documents and parents had been made aware of the need to register all births so that their children could benefit from government programmes.

16. The current Government guaranteed the right to peaceful protest and freedom of movement and believed that freedom of information was the best antidote to corruption. On assuming power, one of its first acts had been to repeal the decree which, under the pretext of regulating the Transparency Act, had in fact nullified it. The Government's finances, including their discretionary component, were now public and were posted quarterly on the web page of the Office of the President. Act No. 22 of 29 June 2005 had repealed the so-called "contempt laws", which had been used to restrict the freedom of expression of the media and other members of civil society.

17. Following the National Consultations for Development that had concluded on 6 November 2007, an Act establishing the National Consultative Council had been enacted on 25 February 2008. The Council would allow the Government and civil society to work together in areas related to the nation's development; 13 billion dollars in income from the Panama Canal would be allocated to social spending by 2025.

18. Lastly, the United Nations High Commissioner for Human Rights had visited the country in February 2007 and the regional OHCHR Office for Latin America and the Caribbean had been transferred to Panama City.

19. **Mr. Gómez** (Panama), referring to the incorporation of the Covenant into the domestic legal system, said that a number of the rights contained in these were enshrined in the Constitution and the Criminal Code, including, inter alia, the principle of non-discrimination (article 19); the right to life (article 6); prohibition of the death penalty (article 30); the right to freedom of movement (article 27) and the right to freedom of thought, conscience and religion (articles 35 and 37). Some of the rights secured under the Covenant were also guaranteed under the Criminal Code, including article 311 concerning crimes of genocide. Furthermore, the right to freedom and security of person established in article 9 of the Covenant was covered by articles 21 to 23 of the Constitution and article 151 of the Criminal Code.

20. **Ms. Rodríguez** (Panama), referring to question 2, said that while quantitative information on resources devoted to ensuring that women's salaries were brought into line with men's was not available, comparative analysis of the wage gap between men and women in the public sector had already begun and the National Directorate for Women planned to conduct, during the course of 2008, a survey on time use in paid and unpaid work. An Executive Decree establishing that men and women had the right to the same minimum wage had come into force in December 2007.

21. **Mr. Gómez** (Panama) said, in reply to question 3, that neither the current nor the new Criminal Code contained a provision requiring rape victims to be "chaste and virtuous".

22. Addressing a question about the Truth Commission, he noted that it had registered 207 cases, 110 of which had been confirmed through extensive investigations. However, since the cases dated back many years, it was often difficult to establish sufficient evidence. The Truth Commission was no longer in operation; however, its activities had been taken over by a special investigations agency under the Public Ministry.

23. **Ms. Rodríguez** (Panama) said, with regard to the question on abortion, that article 144 of the Criminal Code established that penalties applicable in abortion cases would not apply if the pregnancy was a result of rape or if the life of the mother or the product of conception was endangered. The serious health grounds must be determined by a multidisciplinary committee appointed by the Ministry of Health for that purpose. The aforementioned exceptions would continue to exist under the new Criminal Code, which would enter into force in May 2008.

24. **Mr. Guerrero** (Panama), turning to prison overcrowding and prison conditions in general, said that the Government had undertaken a number of

measures to address prison overcrowding, including reducing sentences to community labour, conditional release, the voluntary repatriation of foreign convicts to their countries of origin and house arrest. It was not true that conjugal visits were prohibited for female prisoners; women generally did not receive such visits for economic reasons. Approximately 150 out of the current 300 female detainees had permission to go home on weekends and some had permission to work. A master plan for more modern prison facilities had been developed and would be implemented at the La Joya complex. The problem of unsanitary drinking water at the La Joya and La Joyita facilities had been resolved.

25. Turning to question 7, he said that the torture of detainees was not a State policy. Individuals who committed acts of torture or other cruel treatment were punished and prosecuted in accordance with the law. The Government placed emphasis on preventive measures such as educating the police and all penitentiary staff about human rights.

26. **Mr. Sandoval** (Panama) pointed out that, in compliance with a request from civil society organizations, the penitentiary system was being monitored by the Inter-American system. In fact, the Inter-American Commission on Human Rights had called on Panama to participate in thematic hearings on persons deprived of freedom.

27. **Mr. Gómez** (Panama), referring to question 8, said that the maximum duration of pretrial detention was determined by the minimum penalty established for a particular offence. No person could be deprived of freedom except on the written order of a competent authority and no person could be detained for more than 24 hours without such detention having been ordered by the competent authorities. The first pilot plan involving the use of electronic monitoring bracelets had run for three months in 2005. A second pilot plan, which was tested on 100 persons in 2006, had also proved successful.

28. **Mr. Caballero** (Panama), turning to question 9, said that the Colombian nationals living in Darién province did not qualify for refugee status. However, they were protected under the "Temporary Humanitarian Protection Statute" set out in Executive Decree No. 23. The Decree was considered a valid and useful legal instrument for dealing with massive flows of people entering the country illegally or in an irregular manner in search of protection and would not be revised. Some of the Colombian nationals in Darién province had been repatriated voluntarily, with the agreement of the Colombian Government.

29. **Mr. Gómez** (Panama) said, in reply to question 10, that the Government was striving to make criminal justice more accessible. Training in human rights and criminal law and procedure was being offered to community leaders and corrections staff outside the province of Panama. Two legal mediation centres had been set up to handle complaints and 15 new public defenders had been appointed. The new Criminal Code would enter into force in May 2008 and a reform of the Code of Criminal Procedure was being advocated.

30. **Ms. Rodríguez** (Panama), referring to question 11, said that 10,557 live births had been registered in indigenous zones in 2007. Because of the lack of maternity facilities in Panama, indigenous women living along the border with Costa Rica often crossed over to give birth in San Vito. The Ministry of Foreign Affairs had appointed a vice-consul in San Vito to register such births. In March 2006, the Government had also established a health centre with maternity services in the community of Río Sereno, close to the Costa Rican border.

31. **Mr. Sandoval** (Panama), responding to question 12, said that his Government was willing to identify and repeal provisions that were incompatible with the Covenant. However, it had no intention of repealing article 12, as the domestic mechanisms for constitutional reform had not found it to be in contravention of Panamanian law, nor of the Covenant.

32. **Mr. Troya** (Panama), referring to question 13, said that the National Police was responsible for assisting the Panamanian authorities in ensuring that citizens and foreign nationals under Panamanian jurisdiction exercised their rights and responsibilities, strictly in accordance with the Constitution and the law. Police officers were not subject to any discriminatory restrictions that prevented them from performing their duties, and the evaluation and hiring process was as objective and transparent as possible. With regard to homosexual practices, members of the National Police force were completely free to meet whomever they wished and to engage in any activities they wished during their leisure time, with the exception of political gatherings and activities. However, they could vote. The sexual orientation of

individual officers was not called into question as long as it did not hinder the performance of their security duties. Nevertheless, the institution did require its officials to abide by the prescribed code of conduct and its regulations. The National Police had never applied the provisions of articles 132 and 133, paragraphs 11 and 12, of Executive Decree No. 204 of 3 September 1997 to any of its officers for the practice of homosexual acts. The police force did not scrutinize homosexual acts by its members; rather it examined the overall conduct of any member when such conduct was at variance with the institution's internal regulations as per the Constitution and the law, should said conduct endanger those under that member's responsibility. Members were also guaranteed due and transparent process and free legal assistance with regard to any offences committed in the line of duty. Furthermore, any officers who felt that their rights, dignity or legal guarantees enshrined in the Constitution and the law had been violated, could file a formal complaint with any relevant authority, including with any of the police administrative bodies that dealt with complaints relating to moral misdemeanours. All civil servants were required to fully discharge their Constitutional and legal responsibilities, and any discriminatory practice that harmed human dignity was strictly forbidden, as civil servants were required to enforce the law and lead by example.

33. **Mr. Pérez Sánchez-Cerro**, noting that the Panamanian Supreme Court had ruled that international treaties were not part of constitutional law, underscored the need to incorporate all such instruments into domestic law so that they could be applied. He wondered how often the courts in Panama had invoked the Covenant and whether all its provisions could be invoked directly in individual cases; how the courts would deal with a conflict between the Covenant and a domestic law; whether a subsequent law could suspend the application of the Covenant; and what Panama had done to familiarize not only the people but especially its judicial and administrative authorities with the Covenant.

34. Various studies and reports indicated that the right of prisoners to be treated humanely and with dignity — guaranteed under a whole body of United Nations texts and international treaties to which Panama was no doubt a party — were not being protected in the country, which maintained an unjust, squalid prison system where prisoners were subjected to physical and psychological abuse. Perhaps one of the problems was a lack of funds, but the delegation should explain how the State was planning to remedy the situation.

35. The International Labour Organization (ILO) had documented cases in which contracts of pregnant women had not been renewed; but although the administrative authorities at all levels were empowered by law to punish and even arrest such employers, nothing was being done to enforce the rights of such women. Also, he asked for comment on reports that Panama was not enforcing the right of workers — under both article 22 of the Covenant and ILO Convention No. 87 on Freedom of Association and Protection of the Right to Organize — to form labour unions and to go on strike.

36. In view of reports that Panama practiced *refoulement* and collective expulsions of refugees, he would like to know what protections were available to refugees who had been in Panama for less than 10 years. There was hope of the adoption of legislation authorizing refugees who had been in the country over 10 years to become residents.

37. He suggested that perhaps ILO could assist the Government to overcome any obstacles to its adoption of ILO Convention No. 169 on Indigenous and Tribal Peoples, which would afford needed protections. He asked the delegation to comment on the reported escalation of police harassment and arbitrary detentions of indigenous and rural workers employed by foreign transnational enterprises and to clarify if there was any plan to give indigenous people property rights to their ancestral lands.

38. **Sir Nigel Rodley** asked whether the human rights abuses identified by the Truth Commission had led to any prosecutions or convictions and what the sentences had been. Apparently most such cases had been time-barred, and he wondered how the Government planned to address that issue so that it would not serve as an excuse for impunity. He also would like to know the reasons behind the unanimous adoption by the legislature of a bill to extend the functioning of the Truth Commission, and why it had been vetoed by the executive.

39. He had been pleased to learn the grounds on which abortion might not be a crime under new legislation, but considered that the two months allowed for an abortion after rape was a very short time to deal

with the bureaucracy involved in getting such abortions authorized, and wondered why that period had been determined. Also, while conscientious objection to abortion by a doctor was perfectly permissible, that should not be used as a means to prevent abortion, and the Government must, especially under the two-months rule, ensure immediate referral to some other doctor who would perform the abortion.

40. It would not be easy for the Government to do away with the overcrowded prison conditions in the country: that would require a very targeted approach at the level of the prison population as a whole, which was the second highest in the entire Central American region. It would be useful to know how far the Government had come in replacing the inhumane conditions in its prisons and providing new plant capacity for the enormous numbers of prisoners. He wondered if there was any way to stop the justice system from churning out untenable numbers of prisoners, and perhaps even finding a way to sanction the prison administration itself for imposing injustice of such a dimension.

41. The delegation should provide statistics on the nature and number of complaints received regarding police torture of prisoners as compared to the nature and number of prosecutions and sentences. The delegation maintained that such abuses were isolated events, but the Harvard Law Clinic study of conditions in Panama's prisons — an investigation that the Government was to be commended for allowing — did not permit such a conclusion.

42. The whole process by which a prisoner was held in police custody and then in pretrial detention needed clarification, both as to the time periods involved and the authority under which investigations were conducted. There were reports that the rights of access to a lawyer within 24 hours and of rapid access to habeas corpus were not being respected in practice and even that some prisoners might not have access to a genuine legal defence at all. He asked when the projected reform of the administration of justice would be likely to reduce the backlog and allow the system to deal with the caseload in an effective way.

43. **Mr. Johnson López** said that interesting information had been given on the registration of births in the indigenous regions through the National Civil Status Registry, but nothing had been said about the registration of marriages, divorces or deaths. He also wondered if there were any official statistics on the nationality of the foreigners who applied most frequently for naturalization, and that of those whose applications for naturalized citizenship were most often denied.

44. Overall, the State party must be commended for its serious endeavour in the past 17 years to improve the human rights of its citizens, and especially for the series of new laws and regulations spanning so many different areas.

45. **Ms. Chanet**, concurring with Sir Nigel on the serious overcrowding in the prisons, asked what progress had been made in actually adopting the interesting proposals for alternatives to serving prison sentences and to pretrial detention. Other than the wearing of an electronic bracelet in certain limited instances, there seemed to be no general system for obviating pretrial detention. Panama might consider resorting more frequently to the alternative of releasing a prisoner on bail whenever doing so posed no particular risk and would not prejudice the gathering of evidence. Also, since the statutory time periods for holding prisoners before they were brought to trial were not always observed, she wondered what the penalty was for an overlong pretrial detention, and if a trial could be overturned on that ground.

46. Very interesting information had been given on the reform of the Criminal Code and the Code of Criminal Procedure, but she would like to know more about the actual structure of the judicial system itself — the organization of the courts, the appointment of judges and the qualifications for appointment, the sanctioning of judges and the like.

47. It was not clear if torture as such was punishable by law and if any evidence gathered through torture was automatically inadmissible.

48. She had been surprised by the contention of the member of the delegation replying to question 12 that his Government did not consider the provisions of article 12 of the Constitution to be a problem. Certainly, there was no inherent right to naturalization per se, but once the Constitution granted that right, it should not do so in a discriminatory way by excluding the mentally handicapped, whose rights were clearly protected by articles 2 and 26 of the Covenant.

49. **Mr. Amor** welcomed the delegation's detailed response. He wondered whether there was an

independent body to investigate and ensure prosecution of abuses committed by police and guards in Panama. He also wished to know whether there was an obligation to register births, and if so, whether there were penalties for failing to do so. In the absence of penalties, what measures were in place to ensure that those who had not been registered were not adversely affected?

50. Noting that in carrying out its work, the Truth Commission had faced many obstacles giving the impression that it had not completed its task, he wondered whether the delegation could shed more light on the matter.

51. On abortion, he wondered what the current grounds were for banning abortion and whether banning abortion interfered in a woman's private life and violated her right to make decisions regarding her body. The current trend was to allow pregnant women to deal with unwanted pregnancies as they saw fit. His practical question concerned an issue that was as important in Panama, as it was in the region and beyond.

The meeting was suspended at 5.25 p.m. and resumed at 5.40 p.m.

52. **Mr. Castillero Correa** (Panama) welcomed the Committee's interest and questions and said that his Government needed guidance and cooperation from the Committee. Unfortunately, his delegation would not be able to answer all the questions, but would submit written replies to unanswered questions by the end of the week.

53. **Mr. Gómez** (Panama) said that article 4 of the Constitution recognized international agreements adopted by Panama. Indeed, with the exception of article 8 of the American Convention on Human Rights, which guaranteed the right to a fair trial international agreements did not have constitutional rank. Article 8 was used as a legal basis for determining the constitutionality of legislative acts. The fundamental guarantees contained in the Constitution reflected those found in the Covenant, including recourse to protective measures, such as the remedy of amparo. The preamble to the Constitution stipulated that freedom, democracy, institutional stability and dignity were to be guaranteed, and those protections must be taken into consideration in resolving any dispute, legal controversy or interpretation of a constitutional norm. While Panama still faced the challenge of incorporating those guarantees that did not yet have a constitutional rank, institutions such as the Public Ministry were responsible for disseminating information on international norms among lawyers, law enforcement officials and prosecutors in order to ensure full compliance with the international conventions to which Panama is a party.

54. **Mr. Tuñón** (Panama) said that, a few years earlier, Panama's courts had begun to directly invoke international covenants directly. For example, two municipal court decisions had invoked the Convention on the Rights of the Child and the American Convention on Human Rights; he would provide copies of both decisions to the Committee.

55. **Ms. Rodríguez** (Panama) explained that article 144 of the Penal Code only authorized abortions in the event of serious illness or risk to the pregnant woman, or in the event of pregnancy as a result of rape. In the latter case, the multidisciplinary committee's authorization was not required, but the Public Ministry was the relevant authority that had to be informed in order to initiate an investigation. The two-month deadline for therapeutic abortions stemmed from the fact that the foetus was considered to be fully formed by the third month, and the Family Code provided for the protection of all minors, including foetuses. Panama was a Catholic country, and the legislation was in keeping with its moral principles and social beliefs. However, a March 2008 amendment to the Penal Code prohibited doctor refusal to perform an authorized abortion on moral, religious, or any other grounds; that indicated part of the ongoing process being made on the issue.

56. **Mr. Guerrero** (Panama) said that the work being done by non-governmental organizations and the Ombudsman on prison overcrowding, allowed the authorities to evaluate the issue more clearly. Indeed, recent reports had shone a harsh spotlight on issues such as the poor quality of drinking water, prisoners' health problems, severe overcrowding and the lack of rehabilitation programmes, which could not be solved overnight.

57. Short-term measures to address penitentiary problems included a budget increase to improve food quality and increase the number of doctors, social workers and other technical staff. Improvements to existing prisons were also envisaged. The master plan

for penitentiary systems, a medium-term programme, would phase out existing prisons and replace them with newer units that met international standards.

58. The transfer of the prison population to new prison units would begin by early 2009. Moreover, the appointment of medical staff, including psychologists, as well as of social workers would enhance the ability to apply an interdisciplinary approach to rehabilitation and treatment programmes for convicts. The number of psychologists at the national level had increased from 5 in 2007 to 17 in 2008; there were plans to hire more. Pursuant to the implementation of Act No. 28/2005, sentences could be replaced by periods of employment or study. The evaluation work of the technical team had also made it possible for more prisoners to be granted permission to work and study outside prison facilities. Some prisoners were also allowed to go home on weekends and holidays.

59. The justice administration authorities were taking long-term measures that would prevent incarceration as the first option in the penal procedure. Panama was moving from an inquisitorial system to an accusatorial system, under which would mean fewer custodial sentences, since only those who had already been sentenced would be incarcerated. That was the cornerstone of the penitentiary system's rehabilitation and social reintegration and reinsertion methods. The electronic bracelet pilot project had also achieved some success allowing detainees to return home.

60. While some instances of abuse and torture might occur, torture was not an official penitentiary administrative policy. The perpetrators acted on their own initiative. Once any cases were identified, thanks to the work of bodies such as the office of the Ombudsman, those involved in the situation were immediately brought to the attention of the judicial authorities, who subsequently launched investigations, any appropriate prosecution, and punished those who were found guilty.

The meeting rose at 6.03 p.m.

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Summary record of the 2521st meeting

Held at Headquarters, New York, on Tuesday, 25 March 2008, at 10 a.m.

Chairperson: Mr. Rivas Posada

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Third periodic report of Panama (*continued*)

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08-28147 (E)

The meeting was called to order at 10.15 a.m.

Consideration of reports submitted by States parties under article 40 of the Covenant (*continued*)

Third periodic report of Panama
(CCPR/C/PAN/3; CCPR/C/PAN/Q/3 and Add.1) (*continued*)

1. *At the invitation of the Chairperson, the members of the delegation of Panama took places at the Committee table.*

2. **The Chairperson** invited the delegation to address any points not covered in response to the questions put by the Committee at the previous meeting.

3. **Mr. Castillero Correa** (Panama), addressing the question of refugees, said that in the 1970s a number of persons had fled the conflict in Central America and taken refuge in Panama, where they had subsequently become integrated, in many cases through marriage. Legislation had been drawn up, in consultation with the Office of the United Nations High Commissioner for Refugees (UNHCR), primarily for those with 30 years' standing as refugees, but also including those who had been recognized as such for only 10 years, so as to regularize their status. Expulsion was not provided for under that law: repatriation was exclusively voluntary. No specific records were immediately available on naturalizations, but written information would be provided to the Committee at a later stage. As yet there had been no decision on the question whether the requirements for naturalization spelled out in article 12 of the Constitution, in particular in matters of health, morals, security and disability, amounted to discrimination under the Covenant, but an amendment to the Constitution might well be envisaged, particularly in the light of the Committee's discussions. Both the Family Code and the Labour Code offered protection to pregnant women. Further research would be undertaken in order to determine whether there were any specific discriminatory acts against pregnant women, particularly in employment.

4. Turning to the question of the Truth Commission, he said that out of 110 documented cases, 67 had already been the subject of judicial proceedings, while it had not been possible to initiate such proceedings in the other 43. To enable it to continue with its work, a special investigator on enforced disappearances had been appointed and provided with the necessary budget and support. There was no statute of limitations in such cases, nor for crimes against humanity or acts of terrorism.

5. With regard to the rights of indigenous people, Panama was studying the possibility of ratifying the Indigenous and Tribal Peoples Convention, 1989 (No. 169) of the International Labour Organization (ILO). Five areas, known as *comarcas*, had been designated for the indigenous population, in one third of the national territory. The executive was currently studying a framework act on their ancestral land rights. The National Civil Status Registry, established in 2006, guaranteed related human rights, including those recognized by international conventions ratified by Panama, while local authorities were required by law to assist the country's auxiliary registrars in ensuring the registration of births and marriages.

6. **Mr. Sandoval** (Panama), taking up the question of torture, stressed that it was forbidden by law and that information obtained by such means was not admissible as evidence in the courts. As for pretrial detention, the new Code of Criminal Procedure, which was an essential part of the ongoing reform of the criminal justice system, would offer judges alternative measures in order to lessen the burden on the courts. Under the current Criminal Code, criminal legislation was only to be applied when there were no other means of social control. Regarding the question of the investigation and punishment of prison employees accused of practising torture, the national police were required to discharge their duties professionally; they must not engage in torture of other cruel, inhumane or degrading acts. Any police officer accused of such acts was liable to punishment and even dismissal following a two-tier investigation. As for preventive detention in Police custody, it was allowed for up to 24 hours, for non-criminal offences and only in exceptional cases. Persons detained under transitory arrangements must be transferred for due legal process; prosecutors had received instructions to that effect. Articles 827 and 828 of the Administrative Code had been repeated by Act No. 22 of 2005 and therefore could not serve to justify detention.

7. In response to the question concerning habeas corpus, he acknowledged the delays in granting that constitutional remedy and the need to make the overloaded Panamanian system of justice more effective. A number of additional judicial officers had recently been appointed in order to reduce the backlog,

while the Supreme Court had recently ruled that all habeas corpus applications must be processed within one week. In the defence of persons before the courts, officially appointed counsel offered the same guarantees as private lawyers and were fully competent to address the charges. Moreover, provisions were in place to increase their number and to provide them with greater technological support. A programme of conflict management was also part of the process of judicial reform initiated by the President of the Republic; dispute settlement procedures were accordingly being put in place, with funding from the Inter-American Development Bank. He undertook to provide the Committee with a general description of the operation of the system of justice, as well as the requested statistical data.

8. **Sir Nigel Rodley** said he had understood that, under the new Criminal Code, a doctor could not refuse to perform an abortion on grounds of conscientious objection, but the written replies (CCPR/C/PAN/Q/3/Add.1) seemed to suggest the opposite. He requested clarification. It would also be useful to have statistical and other information about abusive treatment of prisoners and measures taken to prevent it. Lastly, he asked whether the State party was contemplating ratification of the Optional Protocol to the Convention against Torture.

9. **Mr. Tuñon** (Panama) said that, following high-level meetings in the Ministry of Foreign Affairs on the benefits of ratification of that Optional Protocol, the issue had been referred to the Treaty Department, which was initiating the process of consultation that should eventually culminate in its ratification.

10. **Ms. Rodríguez** (Panama), in clarification of article 142 of the new Criminal Code, said that notwithstanding a doctor's right to state his or her conscientious objection on moral, religious or any other grounds in order to be exempted from participation in an abortion procedure, such exemption did not preclude another health professional from performing the abortion in question.

11. **The Chairperson** invited the delegation to address questions 14-24 on the list of issues.

12. **Mr. Tuñon** (Panama), responding to question 14, referred to article 52 of the Civil Status Registry Act, which laid down the conditions for authorization to perform wedding ceremonies. Such authorization had been extended to the representatives of a number of recognized religious denominations, in addition to the appropriate State authorities. Turning to question 15, he said that there was freedom of religion in Panama, subject to the requirements of Christian morality and public order. There was consequently no incompatibility with article 18 of the Covenant. As for catechism classes, referred to in question 16, it was not true that they were compulsory in State schools. Such classes were not part of the curriculum but were provided by the Catholic Church; attendance was voluntary.

13. **Mr. Caballero** (Panama), in answer to question 17 on the list of issues, stressed that the Panama Constitution fully guaranteed the rights of freedom of assembly and freedom of expression. However, in Panama, the right of third persons to free passage was regularly impaired by public demonstrations blocking major roads that were often extremely violent and involved acts of vandalism. In such cases, the police was responsible for securing third persons' right of free passage, which they first attempted to do through dialogue with the protesters and, as a last resort, through the legitimate use of force, in accordance with national and international standards.

14. **Mr. Gómez** (Panama), also responding to question 17, said he wished to emphasize that the police crowd control units responsible for securing third persons' right of passage during public demonstrations were trained by multidisciplinary teams to handle such situations while observing the principles of tolerance, humanitarian policy and due process of law. Panama would continue to guarantee the right to free passage to which all Panamanians were entitled.

15. Turning to question 18, he noted that, because the Panamanian legislature had considered the question of defamation to be related to the right to information, it had adopted Act No. 1 of 5 January 1998, which created a hierarchically superior, special jurisdiction for judges hearing defamation cases involving journalists, thus distinguishing them from judges hearing such cases between private individuals. Under that system, between 2005 and 2008, 69 journalists had been charged with defamation. Thus far, one person had been acquitted and there had been 12 trials, resulting in 17 provisional stays of proceedings and 7 permanent stays of proceedings. His delegation would provide statistics for other time periods if the Committee so wished.

16. **Ms. Rodríguez** (Panama) said that, under article 807 of the Panamanian Family Code, in order to secure the effective provision of child support (question 19), the court could order of its own motion and proceed with the direct debiting of th obligor's wages in favour of the beneficiary. If the employer responsible for effecting the direct debit or seizure failed to do so, that person was jointly liable for the obligation to provide support, without prejudice to any penalty he might incur for contempt of court. The court of first instance, acting either on its own motion or at a party's request, could sentence the obligor owing support for contempt of court for obstructive behaviour, such as evasion in bad faith of the support payment. Moreover, article 206 of the Criminal Code stated that any person who evaded his obligation to provide support could be sentenced to one to three years' imprisonment. With regard to measures taken to protect children who were the victims of failure to comply with child support obligations, the Ministry of Social Development provided guidance to families as to the appropriate legal channels available. Finally, support for children in residential homes and in care programmes could be obtained through the Department of Children and Adoptions.

17. Turning to question 20 on the list of issues, she drew attention to the adoption of Executive Decree No. 19 of 12 June 2006, listing dangerous types of employment, in an effort to combat the worst forms of child labour; domestic service in the homes of third persons came under that heading. The Ministry of Labour had established a division within the national department of labour inspection to detect and manage child labour situations. Furthermore, a national network of experts had been created to work in the detection and prevention of child labour. In terms of the current situation in Panama, 9.4 per cent of the working population between 5 and 17 years of age was engaged in domestic work; of that population, 17.9 per cent were indigenous boys and girls. A total of 47,976 children were engaged in some form of labour in Panama, with the proportion of male children employed higher than that of female children, and rural zones displaying higher numbers of child labourers than urban zones. The large majority of working children were employed during the day rather than at night, and working children were employed for an average of 26 hours per week, which was within the limits prescribed by law.

18. The Government of Panama was pursuing a multi-pronged strategy to deal with child labour. The Department of Children was implementing various schemes to prevent, manage and eradicate child labour, including street patrols, a hotline, and the Safe Steps Programme, which offered comprehensive services, including tutoring and counselling, tailored to the specific needs of children at risk and of their families. Under an agreement with private companies to develop a policy of corporate social responsibility, the ASSA insurance company was providing annual scholarships for the education of children, thereby ensuring that their social and academic progress was not disrupted. In addition, the Institute for the Training and Use of Human Resources had set up a project to eradicate child labour by providing education grants to children at risk; in 2006 and 2007, a total of 2,174 and 2,852 scholarships, respectively, had been awarded. Moreover, the Ministry of Education had established multi-grade schools in border areas for primarily rural and indigenous populations and had thus been able to maintain 2,215 such students in the educational system in 2006 and 2007. Another problem engendered by child labour was illiteracy. Some 3,056 children between the ages of 6 and 17 years of age had been identified by the Government's social protection programmes as not having been incorporated into the educational system; those children were now being attended through a literacy campaign and would eventually be fully integrated into the system.

19. **Mr. Caballero** (Panama), in answer to question 21, said that, following its ratification of the Convention against Transnational Organized Crime, Panama had incorporated the necessary standards into its internal laws. Article 177 of the Criminal Code, for instance, provided for a prison sentence of four to six years for anyone who in any way facilitated the entry into or departure from or the movement within the country of a person of either sex in order to force that person to engage in illegal paid sexual activity or sexual slavery. Penalties were considerably harsher for similar crimes involving minors. The law did not address the use of visas for the sexual exploitation of immigrants, but since any person who contracted foreign persons to work in Panama was forbidden from retaining those persons' personal documents, there was already a control mechanism in place for such practices. The new Panamanian Migration Act allowed any foreign persons entering Panama to change their migratory category in accordance with the migration

laws and also provided for other migratory categories. People working in Panama on visas were obliged to report periodically to the Immigration Service, which also facilitated identification of victims of trafficking. When such victims were identified, the law empowered the Immigration Service to establish prevention and protection measures. Furthermore, the national department responsible for attending to victims was empowered to wage educational campaigns to prevent future victims of trafficking. The law also encouraged international cooperation to prevent and combat trafficking and sexual exploitation through communication with the State and international agencies. Recently adopted Panamanian legislation specifically referred to trafficking and to the need to provide comprehensive attention to the victims of such crimes.

20. **Ms. Rodríguez** (Panama), referring to question 22 on the list of issues, said that various measures had been taken to improve the situation of indigenous peoples, including acts and decrees relating to the promotion of indigenous culture, languages and industries.

21. Regarding question 23, she said that a draft Framework Act existed that would provide for the protection of indigenous lands not yet legally safeguarded as *comarcas*. The adoption of a *comarcas* law was also currently being discussed with members of civil society. In fact, the Framework Act merely awarded the land to indigenous peoples through the procedures it established, but it did not mention the traditional authorities; furthermore, it was silent on education and the administration of justice. The Framework Act was useful in the case of collective lands, which were not contiguous, and for the Ngöbe. On the other hand, the *Comarcas* Law was the most acceptable solution for the Kunas of Darién, the Bribris and the Nasos on account of their social and cultural cohesion and the contiguity of their territory.

22. **Mr. Sandoval** (Panama), responding to question 24, said that, at the initiative of the Panamanian Government, a workshop had been held in summer 2006 on institutional awareness-raising and the drafting of reports for treaty bodies, as a result of the Government's concern over its considerable backlog in that respect. Panama understood the desirability of drafting reports jointly with representatives of civil society for reasons of objectivity; however, time constraints had prevented such a combined effort in the case of the third periodic report. It was based on information supplied and discussed by a team of civil servants who were experts in their field, with civil society concerns being conveyed through the Office of the Ombudsman. Panama undertook to seek ways of ensuring constructive participation by non-governmental organizations (NGOs) in the drafting of its future periodic reports, and in the meantime remained open to their concerns.

23. **Mr. Pérez Sánchez-Cerro** said that, while he welcomed the extensive information provided on the topic of child labour, he was concerned that Panama had not adopted legislation specifically criminalizing child sexual exploitation; it was unclear whether the revised Criminal Code would contain any provisions on the subject. Panama had not taken action as called for by the ILO Worst Forms of Child Labour Convention (No. 182), which specified that States must take immediate and effective measures to secure the prohibition and elimination of the worst forms of child labour. As the Family Code did not appear to expressly prohibit child trafficking, he wondered if a Code for Minors existed or if perhaps the new version of the Criminal Code included a chapter on the criminalization of child trafficking.

24. **Mr. Khalil** said that, while the right of peaceful assembly was recognized under the Constitution of Panama, it was not always protected in practice. No one condoned roadblocks and the destruction of property as a means of protest. However, although the State was entitled to regulate public demonstrations in the interest of public safety in accordance with article 21 of the Covenant, the restrictions imposed should not violate the right of peaceful assembly. Concerning question 18 on whether journalists had been charged with the offence of defamation, he still had concerns that libel laws could be used to curtail criticism of public figures and that journalists continued to be unjustly prosecuted. He also drew attention to paragraph 593 of the report, which spelled out clearly the problems which arose when parents failed to make child-support payments. The more than two-month period required to summon the delinquent party to court meant that many of the basic needs of the children in question were not met. He would appreciate more information on how the relevant legislation on child support was being applied. More details were needed of cases in which the parent in default was

unemployed and unable to make the necessary payments.

25. Noting the importance which the Government attached to the prohibition of the employment of children under the age of 14, as reflected in its written reply to question 20, he enquired whether the Court ruling of 30 November 1995 referred to on page 41 of the written replies to the list of issues (CCPR/C/PAN/Q/Add.1) had affected the provision in the Family Code allowing minors between the ages of 12 and 14 to carry out agricultural and domestic work. The Executive Decree of 12 June 2006 to combat the worst forms of child labour indicated that child labour continued to be a serious problem in Panama. He would be grateful for data on the number of women performing domestic work. It was not clear whether the wages they earned met their basic needs and whether they had any means of lodging complaints. Lastly, he commended the Government's approach to the education of children, which was the best way for developing countries such as Panama to break the vicious cycle of poverty.

26. **Mr. Johnson**, referring to question 21, enquired whether the authorities had conducted any investigations into the use of artists' visas for the trafficking and sexual exploitation of migrants. If so, it would be useful to know whether any culprits had been identified and what the penalties for such crimes were. Information was also needed on the place of origin of the so-called artists.

27. **Ms. Motoc** said that she would welcome details of Panama's efforts to promote the rights of persons with disabilities and how those efforts had affected indigenous people, many of whom were disabled. She wondered why it had not ratified ILO Convention No. 169 and whether there were any obstacles to doing so. She enquired whether there was a national body to coordinate and monitor implementation of the various regional policies concerning indigenous peoples. There was also a need to consult with and obtain the free, prior and informed consent of such peoples on major projects affecting them, such as hydroelectric dams. Clarification was needed on NGO reports of indigenous people being evicted from their lands. More information on Government policy towards the more disadvantaged indigenous communities such as the Naso would also be helpful.

28. **Mr. Lallah** said that the Government was not doing enough to promote the interests of the indigenous peoples. The report itself acknowledged that the resources made available by the State were not sufficient to meet the basic needs of the ethnic groups in question. It was important even for a country with limited resources to give its most vulnerable citizens priority attention. Indigenous communities were among the most disadvantaged. Peoples such as the Naso and others had been greatly affected by public works and construction projects. The harm caused to them could not be reversed. Residential tourism in indigenous areas was also very detrimental to the way of life of the inhabitants. Mining activities such as those in Los Santos also irreversibly destroyed the environment and the local lifestyle.

29. **Ms. Palm** said, with respect to the right of women to have access, on general terms of equality, to public service in the country, that despite legislation establishing a 30 per cent obligatory quota for women's participation in lists of candidates to party offices, in appointments to the Cabinet and in the management of autonomous and semi-autonomous bodies, the goal was far from being reached. Currently, there were only three women Ministers out of 15 Ministers. There were eight male judges and one female judge of the Supreme Court. Other examples could be cited. She wondered what action the State party had taken to fill the quota, including any affirmative measures to promote true equality between men and women. Women were discriminated against in the labour market in various ways. Wages were higher among male workers than female workers for equal work. Clarification was also needed on reports that during interviews for employment women were routinely requested to take pregnancy tests. That practice amounted to unlawful interference in a woman's family life and privacy, in violation of article 17 of the Covenant. Women were thus excluded from the labour market.

30. She was also concerned about reports that there had been an increase in the number of cases of domestic or family violence against women in Panama in 2007. In many of those cases, the women had been killed by their ex-partners. It seemed that women were afraid to lodge complaints against their aggressors, as they were ignored or mistreated by the police. When they had filed complaints, the existing mechanisms for their protection had proved insufficient. Many women

had been killed after denouncing their abusers. She would appreciate information on the specific measures which the State party had taken to combat domestic violence. For example, statistical data on the number of prosecutions carried out and persons convicted as well as the penalties incurred would be helpful. There was also a lack of shelters for battered women. The only existing State shelter provided inadequate protection and its conditions were said to be so deplorable that women preferred not to make use of it. The Office of the Ombudsman had also called for the establishment of more shelters. She enquired whether the Government planned to open new shelters and improve the conditions of the existing one.

31. **Mr. Amor** said that the delegation's replies to the Committee's questions were frank, detailed and useful. Child labour was a cause of concern. He enquired about the enrolment rate of children, particularly among indigenous children, and whether school enrolment was mandatory and up to what age. Child labour often involved domestic work. Such work, even for adults, was often akin to slavery within the meaning of article 8 of the Covenant. Although the Government had made efforts to address the problem through surveillance and inspection, it had not taken robust measures to protect the rights of the children concerned and domestic workers in general.

32. Concerning the reference in the report (para. 501) to Christian morality and the recognition of Catholicism as the religion practised by the majority of Panamanians, the fact that a religion was recognized as a state religion or that its followers comprised the majority of the population posed no problems as long as minority religions were respected and the rights of believers and non-believers alike were observed. The introduction of the notion of Christian morality, however, complicated matters. As the Committee had concluded in its general comment No. 22, the concept of morals derived from many social, philosophical and religious traditions and should not be based exclusively on a single religious tradition. To subject the freedom of religion to a limitation consisting of respect for Christian morality could create the perception among members of religious minorities or non-believers that they were discriminated against.

33. **Mr. Glélé Ahanhanzo** said that many States parties faced persistent and thorny problems in the area of guaranteeing respect for the rights of indigenous peoples. He would therefore be grateful for information about the specific measures taken by the Government to assist indigenous people, who were among the most vulnerable members of society, to exercise their rights and to be recognized as equals by their fellow citizens.

The meeting was suspended at 12.20 p.m. and resumed at 12.30 p.m.

34. **Mr. Gómez** (Panama) said that the new Criminal Code, which would enter into force in May 2008, defined unlawful conduct relating to the corruption and commercial exploitation of minors, including child pornography, sexual slavery and sex tourism, and set out the corresponding penalties. Individuals found to have collaborated with those convicted of such offences were subject to prosecution, as were persons who were aware of those activities but failed to report them to the competent authorities. Act No. 40 of 1999 established the system of adolescent criminal responsibility.

35. In response to the questions put by Mr. Khalil, he said that the right to freedom of peaceful assembly was enshrined in the Constitution. However, demonstrations and protests that interfered with the rights of third parties, in particular their freedom of movement, were unlawful because they contravened constitutional provisions relating to the protection of citizens' physical integrity and property. Indeed, recent protests in Panama had culminated in a number of fatalities and the Public Prosecutor's Department had therefore opened an investigation into those events. As far as defamation was concerned, the new Criminal Code stipulated that discussing or criticizing the actions of public officials did not constitute an offence.

36. On the issue of discrimination against women, Act No. 38 of 2001 set out a series of measures to be taken by the administrative and judicial authorities to protect women from domestic violence. They included the issuance of provisional arrest warrants for alleged perpetrators, the removal of either the victim or the perpetrator from the family home and the suspension of the alleged aggressor's child custody and/or visiting rights. Panama had also acceded to the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women. As a result of training initiatives and awareness-raising campaigns, the number of complaints concerning domestic violence submitted to the relevant authorities had increased significantly, from 9,020 in 2005 to 13,992 in 2006.

37. **Ms. Rodríguez** (Panama) said that, in addition to ratifying a number of international instruments relating to the suppression of sexual exploitation of minors and adopting domestic legislation criminalizing such practices, Panama had developed a set of guidelines on protection and victim support and implemented a strategy designed to ensure that those responsible for investigating alleged incidents treated under-age victims appropriately. Under the new Criminal Code, anyone found guilty of selling children would be sentenced to between 5 and 10 years' imprisonment; longer prison terms were applicable if the sale was for the purpose of sexual exploitation, forced labour, slavery or organ removal.

38. In 2000, Panama had acceded to ILO Convention No. 182, which obliged States, inter alia, to take the measures necessary to prohibit and eliminate all forms of work likely to harm the health, safety or morals of children, including domestic work. Furthermore, following a Supreme Court ruling handed down in November 1995, article 716 of the Family Code, pursuant to which children between 12 and 14 years of age were permitted to engage in domestic work, had been declared unconstitutional. That article had therefore been repealed.

39. Poverty was one of the main causes of child labour in Panama, where, according to statistics from 2003, 50 per cent of children lived below the poverty line. Aware of the need for a comprehensive and holistic approach to the problem, the Government had launched the *Red de oportunidades* (Opportunities' Network) programme, which was designed to provide tailored assistance and support to disadvantaged segments of the population, including persons with disabilities, indigenous persons and persons living in extreme poverty. As part of that programme, 30,000 indigenous children had been vaccinated against a range of communicable diseases and preschool educational services for indigenous communities had been extended.

40. Lastly, with regard to child support, relevant legislation empowered the courts to issue payment orders to parents who failed to honour their responsibilities in that area. Such orders could be issued the day after the first missed payment.

41. **The Chairperson** thanked the State party for its report and written replies and for its willingness to enter into a constructive dialogue with the Committee. While the Panamanian authorities should be commended for their efforts to strengthen the domestic legal framework, the enactment of new legislation was not enough to guarantee respect for the provisions of the Covenant. In that connection, future periodic reports should contain more detailed information, including statistical data, on the situation on the ground.

42. In order to raise awareness of the Covenant and ensure more widespread respect for its provisions, the courts should refer to it more regularly in their rulings rather than viewing it as merely a guide. Furthermore, with the aim of improving the functioning of the judicial branch, the State party should pursue its intention to introduce an accusatory system. While certainly not a panacea for all ills, the adoption of such a system would reduce the backlog of unheard cases, thereby decreasing the likelihood of impunity.

43. The Committee would continue to follow with interest the measures taken by the State party to protect the rights of indigenous people and members of other minority groups, and he urged the authorities to pursue their efforts to address the problems connected with child labour. Lastly, he stressed the risks associated with the criminalization of homosexual activity, particularly since such a stance could lead to discriminatory practices that ran counter to the letter and spirit of the Covenant.

44. **Mr. Castillero Correa** (Panama) said that additional written replies to the Committee's follow-up questions would be provided. He expressed regret that members of civil society had not been more involved in the preparation of the third periodic report and pledged to ensure that future reports would take account of their valuable contribution to the debate on civil and political rights. In closing, he promised that future reports would be submitted to the Committee in a more timely manner.

The meeting rose at 1 p.m.